

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION

CHRISTOPHER ELLIS,  
ROBERT SCHMITZ, and GREGORY  
SUBECK, on behalf of themselves and  
all others similarly situated

PLAINTIFFS

V.

CIVIL ACTION NO. 3:18-CV-73-SA-JMV

BAPTIST MEMORIAL HEALTH CARE  
CORPORATION

DEFENDANT

ORDER

Now before the Court is the Defendant's Motion to Dismiss [8] for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

*Procedural History*

The Plaintiffs, filed their Complaint [1] against Baptist Memorial Health Care Corporation in this Court on March 26, 2018. On April 5, 2018, the Plaintiffs filed a Motion to Certify Class [6] under the Fair Labor Standards Act as provided for by 29 U.S.C. § 216(b). On April 6, 2018, the Defendant filed its Motion to Dismiss [8] for failure to state a claim. On April 12, 2018, the Plaintiffs filed their Amended Complaint [12] against Baptist Health Care Corporation pursuant to Rule 15(a) of the Federal Rules of Civil Procedure.

*Discussion*

The Defendant's pending Motion [8] has been rendered moot by the subsequent filing of the Plaintiff's Amended Complaint. *See generally Ware v. Sailum Co., Ltd.*, 2017 WL 50806, \*2 (N.D. Miss. Feb. 23, 2017). "[A]n amended complaint supersedes [an] original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading." *Ellis v. Lowndes County*, 2017 WL 4678222, \*1

(N.D. Miss. Oct. 17, 2017) (quoting *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994)). “Accordingly, when a motion to dismiss has been filed against a superseded complaint, the proper course ordinarily is to deny the motion to dismiss as moot.” *Id.*, see *Reyna v. Deutsche Bank Natl. Tr. Co.*, 892 F. Supp. 2d 829, 834 (W.D. Tex. 2012) (collecting cases).

*Conclusion*

For the reasons set forth above, the Defendant’s Motion to Dismiss [8] is denied *without prejudice* as moot.

SO ORDERED this the 27th day of February, 2019.

/s/ Sharion Aycock  
UNITED STATES DISTRICT JUDGE